HIGH COURT OF UTTARANCHAL AT NAINITAL.

Misc. Application no. 1917/06
IN
Writ Petition no. 102 (S/S) 2005

Smt. Ravi Kanta W/o Sri Narendra Prakash Sharma,
Presently posted as Bhritya, Directorate of
Ayurvedic & Unani Services, Uttaranchal,
R/o Nauthanpur, Jogiwala, Dehradun. ------Petitioner.

Vs.

1. State of Uttaranchal, through
   Secretary, Medical & Health,
   Uttaranchal Shasan, Dehradun,
2. Director of Medical & Health,
   (Ayurvedic & Unani),
   Uttaranchal Shasan, Dehradun. ----Respondents.

Sri Subhash Upadhyay, learned counsel for the petitioner,
Ld. Standing Counsel for the State/respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Subhash Upadhyay, learned counsel for the applicant/petitioner and learned Standing Counsel for the respondent on the modification application.

This application has been filed by the applicant/ petitioner for modification of the order dated 30.11.2005 passed by this Court.

Submission of the learned counsel for the applicant/ petitioner is that the petitioner has already been promoted by the Department on 26th July 2003. Thereafter, the petitioner was again asked to appear in the examination for promotion. That order was challenged by the petitioner, in the writ petition which has been finally disposed of on 30th November 2005, in view of the statement made by the learned counsel for both the parties that the controversy raised by means of this writ petition has already been settled by this Court in writ petition no. 78(ss) 2005 Chaturth Shreni Rajya Karmchari Sangh Vs. State of Uttaranchal and two ors., delivered on 21st October 2005, as

such, the writ petition may be disposed of on the same terms of the judgment dated 21st October 2005 passed by this Court. Accordingly this Court has disposed of the writ petition on the same terms and observations made in writ petition no. 78 (ss) 2005, however, the fact that the petitioner has already been promoted on Class III post was not incorporated in the final order passed in the writ petition.

Submission of the learned counsel for the petitioner is that since she has already been promoted, there was no occasion to appear again in the examination. Learned counsel for the petitioner has further submitted that against the order dated 21st October 2005 passed in writ petition no. 78(ss)2005, a special appeal was filed by the State and that too has been dismissed.

Since petitioner has already been promoted to the Class III post vide order dated 26th July 2003, but she was asked to appear in the examination for promotion vide letter dated 10th January 2005.

In view of the above situation, the impugned order dated 10.01.2005 is hereby quashed.

The writ petition is allowed. No order as to costs.

(M.M. Ghildiyal, J.)

March 8, 2006:
NCM: